

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

FILED
DISTRICT COURT
WAYCROSS DIV.

2014 FEB 10 P 4: 28

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SO. DIST. OF GA.

TYRONE B. GREEN,

Plaintiff,

v.

SEDGWICK - PLIGRAM PRIDE;
STACY BURKETT; and BURKETT
CATCHING,

Defendants.

CIVIL ACTION NO.: CV514-009

ORDER and MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Tyrone B. Green ("Green") who is incarcerated at Baldwin State Prison in Hardwick, Georgia, has filed a complaint and an application seeking to proceed *in forma pauperis*.

Plaintiff seeks to file his complaint under 42 U.S.C. § 1983. He alleges that, on November 30, 2011, while working for Burkett Catching, a subcontractor of Sedgwick - Pligram (sic) Pride, in Douglas, Georgia, he was struck by a fork lift carrying a vat. He sustained an injury to his shoulder. Green retained an attorney, Dewey N. Hayes, Jr., who pursued a worker's compensation claim which settled in his favor. Plaintiff states that Hayes, either wanted to file or did file a lawsuit against the "company" and then withdrew as his attorney. Green seeks monetary damages from the defendants for his mental stress, loss of wages, and to have his shoulder repaired

A plaintiff states a cognizable claim for relief under 42 U.S.C. § 1983 if his complaint alleges facts showing that his rights as secured by the Constitution and the laws of the United States were violated, and that the violation was committed by a person acting under color of state law. Touchston v. McDermott, 234 F.3d 1133, 1137 (11th Cir. 2000). 42 U.S.C. § 1983 provides a remedy for violations of a person's constitutional rights by a defendant who acts under color of state law, *i.e.*, a "state actor." A successful section 1983 action requires a showing that the conduct complained of was committed by a person acting under color of state law. Harvey v. Harvey, 949 F.2d 1127, 1130 (11th Cir. 1992). Green has failed to show that Defendants were state actors at the time of the alleged incident.

Green has made no showing of an alleged violation of his constitutional rights. Accordingly, Green's application to proceed *in forma pauperis* is **DENIED**. Furthermore, it is my **RECOMMENDATION** that Green's Complaint be **DISMISSED** for failure to state a claim for relief under 42 U.S.C. § 1983.

So **ORDERED** and **REPORTED** and **RECOMMENDED**, this 10th day of February, 2014.



JAMES E. GRAHAM
UNITED STATES MAGISTRATE JUDGE